



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC888]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The Exempted Fishing Permit would allow commercial fishing vessels to fish outside fishery regulations in support of research conducted by the applicant. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before [*INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: You may submit written comments by the following method:

- Email: nmfs.gar.efp@noaa.gov. Include in the subject line "Blue Planet Strategies 2023 On-Demand Gear EFP."

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, Laura.Deighan@noaa.gov, (978) 281-9184.

SUPPLEMENTARY INFORMATION: Blue Planet Strategies submitted a complete application for an Exempted Fishing Permit (EFP) to conduct commercial fishing activities that the regulations would otherwise restrict to expand trials of on-demand fishing gear that uses one or no surface buoys. This EFP would exempt the participating vessels from the gear marking requirements at 50 CFR 697.21(b)(2) to allow the use of trawls of more than three traps with no more than one surface marking and § 648.84(b) to allow the use of gillnet gear with no more than one surface marking.

This project would be a continuation and expansion of Blue Planet Strategies trials of on-demand fishing systems aimed at reducing the entanglement risk to protected species, mainly the North Atlantic right whale, in the American lobster and Jonah crab and sink gillnet fisheries. Under the previous EFP, 6 lobster vessels made 136 trips and 175 deployments in Statistical Areas 513, 467, and 512. Four gillnet vessels made 83 trips and 60 deployments in Statistical Areas 521 and 513. Blue Planet Strategies states that they have not experienced gear conflicts as a result of their on-demand research to date. In addition to gear trials, Blue Planet Strategies has been involved in outreach efforts, including meetings and demonstrations with fishermen, fishing organizations, conservation organizations, fishery management agency staff and leadership, and other interested parties and presentations to the Ropeless Consortium and Society for Marine Mammalogy.

The objectives of this EFP include testing the efficacy of acoustic release devices and other alternatives to static vertical lines in both trap/pot and sink gillnet fisheries; testing the efficacy of sub-surface gear marking technology to relocate gear and notify other fishermen to the presence of gear in the absence of surface markings; testing smart buoy technology that signals gear location and movement; testing and comparing two sub-surface gear marking systems (including hull-mounted transducers); and testing the

viability of integrating SmartRafts, which monitor whale presence and changing ocean conditions, into on-demand gear.

If granted, this permit would allow up to 16 trap/pot vessels and 4 sink gillnet vessels to replace up to 4 of their existing trawls or strings with modified gear that replace one or both vertical lines with acoustic on-demand systems or other alternatives to static buoy lines (including, but not limited to, spooled systems, buoy and stowed rope systems, lift bag systems, and grappling). Initially, the researchers would work with 10 lobster vessels and 2 gillnet vessels, and would expand to the full number of vessels (16 and 4, respectively) in mid-to-late 2023, as additional funding and gear become available. While effort would occur year-round, the researchers anticipate the majority of effort would occur from May to October and fewer than 20 vessels would use on-demand gear at any given time.

For trap/pot gear trials, participants fish between 3 and 25 traps per trawl, in depths ranging from 50 to 400 ft (15.24 to 121.92 m), and with soak times of 2 to 4 days. The researchers expect 780 trips, with 2 pieces of modified gear set per trip, resulting in a total of 1,560 deployments. Participants would deploy on-demand trap/pot gear in Lobster Management Area 1 and, to a lesser extent, Lobster Management Area 3, and would target areas that are not as heavily fished by mobile fleets to reduce the risk of gear conflicts. This project would include the opportunity for up to 12 of the participating lobster vessels to trial gear without static vertical lines in Atlantic Large Whale Take Reduction Plan (ALWTRP) Restricted Areas.

For gillnet trials, participants fish a maximum of 21 nets of 300 ft (91.44 m) or less for 6 to 8 hours. The researchers expect 104 trips, with 2 pieces of modified gear set per trip, resulting in a total of 208 deployments. Gillnet participants would deploy gear in Statistical Area 521 (approximately 50 deployments), Area 538 (approximately 10 deployments), and in the Georges Bank Regulated Mesh Area (148 deployments).

Some units would be outfitted with EdgeTech acoustic marking technology, acoustic triggers, and software. Other units would be outfitted with Teledyne undersea modem marking technology, acoustic triggers, and software. All units would include smart buoys on each anchoring unit, outfitted with GPS for data collection and lost gear retrieval.

Other than gear markings, all trap trawls and gillnet strings would be consistent with the regulations of the management area where the vessel is fishing. This permit would exempt participating vessels from the specified Federal regulations in Federal waters only. The applicant would be responsible for obtaining any necessary state authorizations. This EFP would not exempt the vessels from any requirements imposed by any state, the Endangered Species Act, the Marine Mammal Protection Act, or any other applicable laws.

Blue Planet Strategies and engineering teams representing the respective prototype would oversee initial deployments of on-demand gear. If necessary, participants would use a GoPro System, or other recording device, on deck to record the success and/or failures of some or all of the retrievals for review. Participants would record data on standardized data collection sheets (specific to the relevant sub-project). Blue Planet Strategies has proposed permit conditions and requirements similar to those included in other on-demand EFPs to minimize the chance of causing injury to right whales and mitigate the risk of gear conflicts, including:

- All vessels would report all right whale sightings to NMFS via *ne.rw.survey@noaa.gov* or NOAA (866-755-6622) or the U.S. Coast Guard (Channel 16);
- All vessels would provide mandatory, weekly gear loss reports;
- All vessels would retrieve on-demand vertical lines as quickly as possible to minimize time in the water column;

- All vessels would adhere to current approach regulations—a 500-yard (457.2-meter or 1,500-foot) buffer zone created by a surfacing right whale—and must depart immediately at a safe and slow speed, in accordance with current regulations. Hauling any lobster gear would immediately cease, by either removal or resetting, to accommodate the regulation and be reinitiated only after it is reasonable to assume the whale has left the area;
- All vessels would use smart buoy technology to provide alerts to the fishermen and the researcher staff within 2 hours of an unplanned release of a stowed line;
- All vessels would use the Trap Tracker or an equivalent application to record positioning details, which would be available to Federal, state, and corresponding enforcement personnel, as well as other fishermen;
- Vessels would operate within a 10-knot speed limit when transiting Restricted Areas or when whales are observed;
- When fishing in ALWTRP Restricted Areas, on-demand vertical lines would be marked with unique markings in addition to ALWTRP regulations. The specific markings/color combinations would be agreed upon by the NMFS Atlantic Large Whale Take Reduction Team Coordinator and provided to the Office of Law Enforcement;
- When fishing in ALWTRP Restricted Areas, vessels would check real-time right whale sightings information (such as Right Whale Sightings Advisories and Whale ALERT) before setting any gear and avoid areas of high right whale abundance;
- When fishing in ALWTRP Restricted Areas, all vessels would avoid operation between dusk and dawn;

- The principal investigators would update the appropriate regional and state management partners on a regular basis to the level necessary to avoid miscommunication and maintain effective working relationships;
- The principal investigators would regularly provide the approximate location and intensity of fishing in Restricted Areas where trawls will not have any surface markers and would proactively communicate within local ports with mobile and fixed gear fleets on fishing effort and location under the EFP, with particular focus on the Restricted Areas. Communications would be tailored to each region and port, and may include methods such as in-person meetings with fishermen in ports in advance of research activities to discuss gear locations, email or text contact with fishing vessels identified by the Vessel Monitoring System as fishing in the research area, Coast Guard notices to mariners, and any other methods that will assure local fishermen are informed about research activities in order to avoid any potential gear conflicts;
- Participants would document and researchers would summarize all instances of gear conflicts/gear loss in the final report; and
- A copy of the final report would be provided to NMFS within 6 months of the expiration of the EFP.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 3, 2023.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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